

Appln. No. 10/764,357
Amendment dated August 7, 2006
Reply to Office Action mailed May 5, 2006

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REMARKS

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Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claim 18 remains in this application. Claims 1 through 17 have been cancelled. No claims have been withdrawn or added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraph 1 of the Office Action

Claim 16 has been rejected under 35 U.S.C. §112 (first paragraph) as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

Claim 16 has been cancelled, and claim 18 which is still pending does not include a similar requirement, so it is therefore submitted that the rejection is moot.

Paragraphs 3 and 4 of the Office Action

Claims 1, 5 and 6 have been rejected under 35 U.S.C. §102(b) as being anticipated by Sage.

Claims 3, 4, 7 through 11, 13, 14 and 16 through 18 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Sage in view of Kvalvik and Yang.

Claim 18 requires in part, "wherinc said first side portion being integrally coupled to said bottom portion and said second side portion being

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integrally coupled to said bottom portion, said bottom portion, first side portion, and second side portion forming a main liner member, said main liner member being elongate with opposite ends, said main liner member defining substantially U-shaped openings at said opposite ends being bounded by said bottom portion and said side portions and forming a channel".

In contrast to this requirement of the claim, the Sage patent discusses a bathtub liner in which the side pads 12 through 14 are clearly not "integrally coupled" to the bottom pad 11. In fact, it is submitted that any attempt to "integrally couple" the side pads 12 through 14 to the bottom pad 14 would be contrary to the Sage invention, as it is a central feature of the Sage patent that the pads be foldable with respect to each other. See, for example, Sage at col. 1, lines 62 through 65 (emphasis added):

Another object of the invention is to provide an improved bathtub liner which facilitates drainage of water from a bathtub and can, after being removed from the tub, be folded for ready transport.

This object is further elucidated in the description of the loose attachment of the side pads 12 through 14 to the bottom pad 11 in Sage at col. 3, lines 49 through 59, where it states (emphasis added):

As depicted in FIG. 5, opposing strip pairs of negative hook and loop material or VelcroTM 40, 41 are attached to side pads 12, 13 and bottom pad 11 and are interconnected by elastic bands 42 having positive hook and loop strips 43 thereon. Bands 42 can be attached to an opposing strip pair 40, 41 such that pads 12-14 can be folded over pad 11 in the manner shown in FIG. 2. Strips 40-42 are sized such that side pads 12-14 can be positioned on top of pad 11--as is pad 14 in FIG. 4--or be positioned to the side of pad 11--as are pads 12, 13 in FIG. 4.

Another "advantage" of this loose attachment of the side pads to the bottom pad is set forth in Sage at col. 4, lines 2 through 9 (emphasis added):

Side pad 12 can then, as indicated by ghost outlines 12A, 12B, and 12C be rotated about pad 11 in the directions indicated by arrows C. This permits the liner of the invention to be readily adapted to different sized bathtubs. Attaching a side pad 12 to a bottom pad 11

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with a strip 52 in the manner shown in FIG. 8 also permits the position at which the bottom of pad 12 contacts pad 11 to be adjusted as indicated by arrow D.

Thus, not only does Sage teach one of ordinary skill in the art that the loose connection permits the side pads to be folded over the bottom pads, it also teaches one of ordinary skill in the art that this loose attachment permits the pads of the bathtub liner to conform to different bathtub configurations.

It is therefore submitted that one of ordinary skill in the art, considering the Sage patent, would not recognize that the Sage patent discloses a "first side portion being *integrally coupled to* said bottom portion" or a "second side portion being *integrally coupled to* said bottom portion". Further, it is submitted that one of ordinary skill in the art would not be motivated to make the side pads of the Sage apparatus "integral" with the bottom pad, as this would conflict with the functions and objections of the Sage apparatus in being able to fold the pads and adapt the configuration of the pads to different tub shapes. It is therefore submitted that one of ordinary skill in the art would not attempt to incorporate the structure of the walls of the Kvalvik patent into the Sage apparatus.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Sage, Kvalvik and Yang patents set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claim 18.

Withdrawal of the §103(a) rejection of claim 18 is therefore respectfully requested.

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CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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Date: August 7, 2006

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